

## Transcript for Form 2848 vs Form 8821

***Note - Any federal tax advice contained in this transcript is intended to apply to the specific situation described and should not be considered official guidance independent of the presentation. The tax advice and statements contained herein should not be relied upon for retirement planning purposes without first consulting a tax or retirement planning professional. This transcript has been edited for technical accuracy and may differ slightly from the audio recording of the Form 2848 vs Form 8821 phone forum. This information is current as of June 1, 2010. Since changes may have occurred, no guarantees are made concerning the technical accuracy after that date.***

Moderator: Ladies and gentlemen, thank you for standing by. Welcome to the Form 2848 versus Form 8821 Retirement Plan Form Forum conference call. At this time, all participants are in a listen only mode. Later we will conduct a question and answer session. As a reminder, today's call is being recorded. I would now like to turn the conference over to our host, Mr. Mark O'Donnell. Please go ahead.

Mark: Hi, everyone, I'm Mark O'Donnell, the Director of Customer Education and Outreach for Employee Plans at the IRS. Thanks for dialing into our phone forum today on the proper use of Forms 2848 and 8821. Today we'll hear from the following four speakers: Monica Templeman, the Director of our Employee Plan Examinations Office; Monika will introduce the program. Then we'll hear from Gale Moore, the Manager of Employee Plans Examination Special Review, and Harry Tober, a revenue agent from Employee Plans Special Review. Gale and Harry will cover the proper use of Forms 2848 and 8821 in the EP Examinations Program. Then we'll hear from Vicky Surguy, Manager of our Employee Plans Determination Letter Program. Vicky will cover the proper use of Forms 2848 and 8821 in the Determination Letter Program.

You can view our PowerPoint presentations for this phone forum. You can find the PowerPoint presentation on the IRS Web site where you registered for this phone forum. That is [www.irs.gov/ep](http://www.irs.gov/ep). Click on Form 2848 versus Form 8821 Retirement Plans Fund Form in the lower left column and look for the link to the PowerPoint presentation. You can also get there by going to the main IRS Web page and clicking on the Retirement Plans community tab along the top.

The phone forum, including questions and answers, will be recorded. We plan to post a transcript and audio recording of this program on our Web site, [www.irs.gov/ep](http://www.irs.gov/ep). We will e-mail a certificate of completion to everyone who registered for this session and who attends the whole session. Enrolled agents and enrolled retirement plan agents are entitled to continuing professional education credit. Other tax professionals may want to consult with their licensing organization to see if it will provide continuing professional education credit for this session.

For more information on retirement plans, visit the retirement plans Web site at [www.irs.gov/ep](http://www.irs.gov/ep). You can also get there by going to the main IRS landing page and clicking on the Retirement Plan community tab along the top. Once you're there, you might want to subscribe to one of our free electronic newsletters. A link for the newsletters is in the left hand navigation bar.

We have two newsletters. *The Retirement News for Employers* is directed at employers sponsoring retirement plans. *The Employee Plans News* is directed at professionals who practice in the retirement area. We recently issued the Spring edition of the *Retirement News for Employers* that has an array of retirement plans information, including an article, "Who Can Represent Plan Sponsors During an Employee Plans Examination?" Check out our Web page and subscribe to our newsletter.

Without further ado, here are our speakers. Monika?

Monika: Thank you very much, Mark. It's a pleasure to be with all of you today. There's been a lot of confusion about the use of the Form 2848 power of attorney versus the 8821 tax information authorization form, and it's with respect with who can use which form to represent plan sponsors, and then the proper completion of these forms. The goal of today's phone forum is to bring some clarity to these issues and to dispel some of the confusion. I'll provide, as Mark said, some relevant background and a brief overview, and then you'll hear from my esteemed colleagues, as Mark mentioned, from both examinations and determinations, on some of the specifics, including the "how to" information. Our discussion today is limited only to employee plans matters, so we're only going to be talking about things relevant to EP.

Now, the first question is, why does all this matter so much? The key is that the concern for us is that the improper completion of these forms poses the possibility of violating third party contact requirements and disclosure rules. As you know, we don't want to violate the confidentiality of tax payers during our examinations and determinations, that's paramount. There are three separate and distinct taxpayers in an employee plans examination: the plan's sponsor; the trust, defined simply as the accumulation of assets held in the name of the plan participants; and the participant or beneficiary. In order to request retirement plan records or discuss issues of any of these entities with anyone other than these three entities, a separate power of attorney is required for each other person.

So that brings us to the Form 2848, the Power of Attorney Form, and that authorizes an individual to represent a plan sponsor before the IRS. The individual authorized must be a person eligible to practice before the IRS, and I'll have a few comments about that. The Form 8821, or the Tax Information Authorization Form, authorizes any individual corporation, firm, organization or partnership that the plans' sponsor designates, to inspect or receive confidential information in any office of the IRS for the type of tax and years or periods listed on the form. It's a much, much more limited form.

That brings us to how does the ERPA program, or the Enrolled Retirement Plan Agent Program affect the plan rules, and that's a question we've been getting a great deal since the enactment of the program. With the successful implementation of the Enrolled Retirement Plan Agent, or ERPA, program, under Circular 230, third party administrators and benefits consultants are no longer disenfranchised as a result of RR-98. If you recall, in RR-98 the Power of Attorney Form

was revised to exclude unenrolled preparers. The ERPA program allows third party administrators and benefits consultants who maintain and administer plans to have limited practice before the Service under Circular 230 on retirement plan matters, and it also increases the accountability because they have to go through an examination, enrollment and renewal procedures and continuing education equivalent to that of the enrolled agent. These pension professionals are now able to become ERPAs and represent clients on issues involving IRS employee plans programs.

Excluding the actuarial forms or schedules, the programs that are accessible to other folks under the Circular 230 that are in the retirement plan arena now can be represented by ERPAs using the Form 2848. And this was revised to now include a box that gives an ERPA designation. Accordingly, IRS procedures requiring adherence to the rules that clearly distinguish Form 2848 from the more innocuous 8821 are being strictly enforced. The rules haven't changed, but our strict adherence is now even stricter than before.

Let me go through very quickly and tell you who can represent a taxpayer before the Service on 2848—just a quick review: an attorney, a CPA, an enrolled actuary, the enrolled agent I just mentioned, and the enrolled retirement plan agent or an ERPA. And again, that's because of the tests, the background checks and the continuing education.

Also, just a quick note about ERPA. The TEG Advisory Committee, or Advisory Committee for Tax Exempt and Governmental Entities, also known as the ACT, had recommended the creation of the ERPA category, to be able to deal with the disenfranchised PPAs and benefits consultants. And so now that this is an official category, the form does include the ERPA designation.

Now, why is this so important between what the ERPA can do and the unenrolled preparer? Well, if someone is unenrolled, an individual not licensed or enrolled—and this includes ERPAs—they become an unenrolled preparer. As such, they can only represent a taxpayer if they prepared that specific tax return. Otherwise, they can't represent a taxpayer before the agent auditing that return for that year.

Now, a determination application—and you'll hear from Vicky Surguy at the last portion of this presentation—is not a tax return. So there's no circumstances in which an unenrolled return preparer could sign a 5300 series, or the 5307 application, or an 8717 User Fee Form. In a determination letter application, an unenrolled preparer would only be able to use that 8821 form, and we'll go into a lot more details about that. Also, there's been confusion if an unenrolled preparer works for a firm that includes authorized power of attorneys, for example, they work for an attorney or a CPA, they still would have to use and file the Form 8821. Only the authorized power of attorney would be able to use the 2848.

So just to summarize, we do not want to have any unauthorized disclosure, so we need to be very strict in our adherence to the rules between the 2848 and the 8821. And again, we're going to be discussing employee plans matters.

Now it's my pleasure to turn it over to my esteemed colleague, Gale Moore, the Manager of Special Review. Gale?

Gale: Thank you. Hello, everyone, and thank you for your participation. Due to the importance placed on meeting the rules for third party contacts and disclosures, care is taken in dealing between the examiner and determination specialists, and those individuals with whom they have received permission to interact. Such interaction should be limited to the authority granted by these forms as completed by the taxpayer's sponsor. The biggest task of an examiner or specialist when they need information is to obtain it from the right persons or person who has knowledge about the employer and business, the plan, how it's operated, and for this reason, we are required to have upfront authorization to speak to anyone other than the taxpayer.

This also includes ensuring that the 2848 is properly completed to avoid disclosing tax information of a confidential nature to any unauthorized person. And as Monica said, similarly treating someone as a power of attorney when the 2848 is improperly completed, or we only receive tax information authorization when a Form 8821 is provided to the Service, means just that type of improper disclosure, and these ... persons may never represent taxpayers in any situation.

Due to the importance of this matter, we issued guidance on the proper completion of these forms, and it was posted to the EP home page. The examiners will be adhering to this when they conduct future examinations. We want you to obtain full understanding as well.

Determinations is in the process of issuing guidance to their employees, and you will see the specialists adhering to those acts when carrying out their responsibilities. Also, we, EP Exam Special Review, will work with the CEDE Investment Forms Project Committee to revise the instruction CDs respective forms as it pertains to EP.

Our effort today is to educate the retirement plan community as we have educated our examiners and specialists in this area in an attempt to make a smooth transition to the new rules regarding the preparation of these forms and the rules regarding communication with individuals listed. This guidance contained therein is the best interest for all, and helps protect the integrity of the entire system, which includes the specialists as they perform their duties, the privacy and confidentiality of the taxpayers, and the proper interactions with legally appointed reps.

This guidance will be updated annually as needed. The following presentation by EP Examinations Third Party Contact Coordinator Harry Tober will cover the proper preparation of these forms as it pertains to examination. Today's session is limited to the EP matters only

regarding the preparation of these forms, and we're not equipped to handle broader income tax matters.

Now I'll turn it over to the reviewer, Harry Tober.

Harry: Thank you. I'm going to be using the PowerPoint that was provided for you on the Web site as a guide, so if you have that, that would be the best thing to follow. You're going to hear some repetition of things you've already heard, but they're important enough to be repeated; they need to be repeated.

Starting with slide 7 having to do with the memo of content, the memo of content is split up into specific areas. The first area is a brief introduction of purpose, and the main part of it has to do with questions and answers. The first rule relates to the preparation of the form, specific preparations; the next... relates to specific situations that the examiners might find themselves in, and how they've been instructed to handle those situations. That's followed by a discussion on the unenrolled return preparers. And finally, question one has a number of examples, and we've provided concluded forms based on those questions, to use as a guide.

The purpose of the forms; obviously the purpose is the guidance of the proper completion of the 2848 and the 8821. We found through the review of cases that this guide is absolutely necessary. If you go to the instructions for the 2848 and the 8821, you'll note that the only time the EP is specifically referred to is in the first area having to do with taxpayer information, and even then that affirmation is extremely general. It was pretty obvious that guidance was necessary. The purpose of the guidance is to avoid violations of the IRS 6103 for disclosure and 7602-C for third party contact. Also to understand the differences between the two forms, and also to protect the government and examiners' interest.

Going onto slide 9, you'll notice as far as the preparation is concerned on these two forms, there are many similarities, but that's where it ends. There are no similarities in their use. As Monica stated, the Form 8821 authorizes the party designated to inspect and/or receive your confidential information at any office of the IRS for the type of tax and the years of periods you list. Nothing else. It cannot be treated as powers of attorney. It can only be received as correspondence, and that's it.

As far as the specific questions that are concerned, the first question is, who is the taxpayer? As Monica stated, there are three taxpayers in the new ... examination: the plan's sponsors: the trust, which is nothing more the accumulation of assets held in the name of the plan participants; and the participant, annuent or beneficiary, depending on the circumstances.

...original initial examination of the plan sponsors, that would be, that's the entity that's listed in the taxpayer information on line one along with the name and address, and EIN of the sponsoring

the employer and the plan number. In other words, the examination is going to be based on anything but plan assets.

If a trust is the entity that's going to be examined, then that's what's listed in the taxpayer information. The trust name, followed by the name and address and sponsoring employer and the plan number and trust EIN. If the trust doesn't have an EIN they'll be given the opportunity to get one, if that's what you want to do. Otherwise, it will be just entered "none."

As far as the ... records are concerned, if we find ourselves in a situation where there's some type of discrepancy adjustments, or the 1099R amounts have not been picked up on the 1040, then you'll have to put in the taxpayer information; it would be the participant and the spouse, if applicable, plus the ... name, address and appropriate Social Security numbers. In a 5330, because of a limited transaction, then just the party of interest would be listed, and also when you are keeping in mind that if it's a joint return, there is a possibility that the spouses might even want separate powers of attorneys, so we will deal with that as it comes up.

Now the memo provides examples of completed forms in different situations. That's what the attachments are for. An EP examination could require multiple Forms 2848 and 8821, depending on what's being examined. Typical of EP examinations, the initial employment letter will go to the plan sponsor, and a ... request for information regarding the trust in some cases. As a plan examination progresses, it may be determined that there is an issue concerning trust assets. If an issue exists, the Service will determine whether an examination ... will be conducted. If a decision is made to perform an examination, the examiner will determine who the trustee is, using Form 56, and will then inform the trustee of a separate trust examination. As it's stated also here on the slide, ... forms of ... will be required, under Reg 601.503V for trustees, and the free flow of information amongst the entities as necessary is not an improper disclosure. The prohibition or disclosure of return information applies to the Form 5500 for each of the identified taxpayers.

However, disclosure of information to the employer, the trustee or the participant concerning one or the other does not violate IRS 6103A if such disclosure would be considered disclosure that ... person having a material interest under IRS 6103E. So basically we can relay as necessary any information that was found during the examination of the records of any of these entities. But in order to have somebody represent them, they each have to sign off on their own 2848. Even if they fall into more than one category, for instance, if the individual that is able to legally bind a corporation and is also the trustee, it is still two separate and distinct entities, and each requires its own 2848.

Now as far as the forms themselves, the 2848 only allows for individuals. The 8821 could also have corporations and partnerships, as well as the individuals. You need the full nine-digit ... number, if one exists; otherwise "none" would be the proper entry. And you need to complete all other requested information. This has to be emphasized. Only parties listed on those forms

qualify to represent the taxpayer. We do not allow substitutions; no other representatives of the firm. That includes phone calls, IDRs, etc. Reg 601.505 does provide procedures that allow a power of attorney to appoint a substitute for themselves if item 5 of the 2848 allows for it. The way item 5 is set up specifically does not allow for substitutions. The bottom line is rules and the regulations have to be followed in order to provide for substitutions, and because of all these specific requirements, our examiners have been instructed to request a new 2848.

As far as tax matters are concerned, plan sponsor, if the only form that file is a 5500, no tax would ever be ... so "not applicable: is correct answer in that area. If it's the trust that could end up having income tax if they're under 1041, which only allows for a calendar year, or a ... which would be the plan year. ... of the income or excise tax, in which case would be a 5330 or a 1040. For a corporation it could be income or excise tax, in certain situation under which would be a 2053 or the 1120. These are the areas that we found the most problems in. We cannot have duplications. We can't have more than one taxpayer per form.

Starting with question 3, each Form 2848 or 8821, as I just said, can only cover one taxable entity, and tax or taxes relating to that entity. The year or years entered are the only years covered by that form. ... required ... new or an additional form to cover those years.

As far as the signature is concerned, item 9 on the 2848 or item 7 on 8821 should be accompanied by the proper title. Claim sponsors should be the title held by the individual who was authorized to sign the form. If there's more than one title, then the title that's the legally binding entity should be the one that's used. Obviously, for the trust it should be the trustee. ... participant, annuity or beneficiary would be either individual, the ... spouse for the 8821, and you'll need both spouses for the 2848 if it's a situation that covers them. If it's the 5330, again, for purposes of transaction it would just be the party of interest.

Question 5 for a bank or other entity, now we get into the area of the memo reacting to specific situations. If they have a bank or another entity as the trustee, and it's the officer having the authority to legally bind this entity, for instance, quite often it's the trust department for the bank. For that specific situation it would be a trustee, and since it's a trustee we're going to need a Form 56 completed to determine who should have that control.

For a ... plan examination, again, the theme throughout this entire memo is this: who's records are being examined? And in almost every case it's the plan's sponsor. That would be the individual who has the ... power of attorney. If the plan is disqualified and a ... then you're going to need a 2048 signed by that participant, and their spouse, if applicable.

... accept the responsibility for the plan, we've had situations in which somebody, where 4, 3b is the example given. They're saying that we're just the conduit. We just collect the money and we pass it through to the trustee or the trust or whoever is holding the assets for the participants. But the fact of the matter is, who's records, again, are you examining? And in almost all

occasions it's the plan sponsor records. For those of you, that's the individual you have to go to to get the files ... And again, if the plan is disqualified, and the participants ... then we're going to need the 2848 from them before we assess any additional tax.

The question of compliance contacts for non... Again, same thing—who's records are looked at? Likely, it's the plan sponsor, so they would be the individuals that we would have to go to to get authorization for a power of attorney.

Name changes. Quite often we'll get a power of attorney that has a mistake on it. It's changed on the form, and it's just initialed. There is a cure for it—Regulation 601.503v3 allows the power of attorney to execute a new 2848, which includes the information. The form would then be attached to the original power of attorney to validate it. There are also additional requirements, but the bottom line in ... changes aren't allowed. Our examiners have been instructed to get a new 2848 rather than trying to verify that all the requirements of the regulations are met.

Now, large...or large...groups. It has been the policy to give them a letter, on official corporate letterhead, signed by corporate officers that designate who will furnish specific records and information, for example, if employees are acting within the scope of their employment. Also to discuss matters during preliminary stages, and also to receive and/or negotiate for proposed adjustments. This is the equivalent of Form 8821. It's fine as far as determining what employees of the plan sponsor, or to give you information in specific areas, but they're going to need to go to a third party administrator or an outside accountant or lawyer, not employed by the plan sponsor, and we're going to need a Form 2848.

If you have ...legitimate Forms 2848 and 8821, the other form is going to be a replacement form. Line 8 on the 2848...the 8821, and line 7 of the Form 56 all handle this area. They all provide for revocation of the same type of ... form on file with the IRS. 2848 and 8821, it is automatically unless the box is checked. 2848 and 8821—if you're not going to revoke a prior form, they must be attached to the current forms. That's not necessary for the Form 56, by the way. You can do a determination of some or one of the prior forms, if applicable, without having to attach the remaining valid ones. Also, keep in mind, a revocation of a prior 2848 doesn't automatically revoke a prior 8821, and vice versa.

As far as most of the employer plans are concerned, again, who's records are being looked at? If it's the trust records, then you need to go and document the plan... the trustee, usually it's the ... You have to find out whether you have to have multiple trustees to sign the 2848, or whether one or two could be a representative of the board, and they would have to sign a Form 5060 before they could appoint a power of attorney. I would say quite often the examination is held either at the union office or a third party administrator. If they're acting in the same capacity as the plan sponsor, then that's what they would sign. As the plan sponsor you would need the Form 56...trustees. They would have to authorize 2848. Again, if it's necessary, expand



individual records of one of the participating employers, ... determine who could legally bind the employers that you have to expand your examination to, and they should be the ones who do the signing and providing the power of attorney.

Now one of the last points of the memo has to do with the unenrolled return preparers, which Gale pointed out in her opening remarks. In order to qualify to be a file returnee, they must have prepared the return. That includes all these designations, other than the specific designations on the 2848, whether it's a lawyer, CPA, enrolled agent, actuary, or the new ... designations. They don't have to prepare the return, but for an unenrolled return preparer, they have to have been the person who prepared the returns; them, not somebody else in their firm. The year of preparation has to be in the jurisdiction box next to the signature, and it has to match the year of examination on the front of the 2848. If the exam is expanded then you will need a new 2848 for those additional years. In order for that same unenrolled returned preparer to continue to represent the taxpayer, they must have been the ones that prepared the 5500 for those years that you're now expanding into.

An unenrolled return preparer cannot exceed waivers...extension. Only the agreement. Claims for refund; they can't represent the taxpayer before appeals, or before the counsel. And they cannot sign any documents for a taxpayer.

At this particular time...doesn't include...for the multiple employer plans. We're hoping that as we renew this memo, which as Dale mentioned we will be doing every year, that we will be adding on specific situations that continue to arise as we go forward. But the general rule still applies—who's records are being examined? Who's records are being examined, those are the individuals that have the authority to appoint a power of attorney.

That concludes the examination portion of the presentation. Next up will be Vicky Surguy as the Manager of EP Determinations.

Vicky: Hello, everyone. As was just discussed, I'm going to cover the determination function and the proper completion of 2848 and 8821 for those plan submissions. Before I get started, I wanted to make sure that you understand that those documents truly have to be completed correctly, and I'm going to cover that in my presentation, prior to the issuance of a determination letter. A lot of our taxpayer service calls, communications that come in to us later from a taxpayer, is that we did not receive a copy of the determination letter. When we go back and look, many, many times the representation from the 2848 or the 8821 is not filled out correctly, and due to that reason, we cannot send the determination letter. So it's very, very important that you concentrate on making sure that you properly complete these documents with your application to be able to allow us to properly discuss matters of the determination letter with the power of attorneys and for them to get a copy of the determination letter.

If you follow this slide, I'm on overviews on page 31, which actually begins my presentation. Another important point I want to make is that this was mentioned at the beginning. Unenrolled preparers cannot sign a 5300 series or the 8717. That's very important to remember. Their actions between the Service and practitioners are limited on the determination letter process to IRC Section 6103 and 6104. The instructions and entries on these forms are paramount to determine whether we can make disclosure, and what permission for the Service to discuss matters with representatives. Generally, Section 6103 and 6104 both apply to determination letter requests. However, 6104 does not apply to the examination activity, and 6104 is what deals with records open to public inspection.

Other statutory considerations include the rules limiting disclosure and third party contacts. These rules are meant to ensure that the taxpayers and representatives' rights are properly observed and protected. The forms must be properly completed to estimate disclosures of information, as I previously said.

To go onto slide 34, it talks about disclosure rules for EP determination. 6104a1b applies to determination applications. Most qualification applications under Section 401a1 and 40a are open to public inspection. What is open to public inspection? All papers submitted in support of an application, all letters or other documents listed by the IRS and dealing with the qualification of the plans. One of the important rules to remember for disclosure for EP determination is whether there are 26 or more participants. If it's 26 or more participants, it is open for public inspection. If it's 25 or less, it's only open to the participants.

We go onto slide number 36. When we talk about items that are not open to public inspection, one of the things we're talking about is compensation of any individual, because that would not be open no matter how many participants are in the plan. Also, other items that would not be open are requests of trade secrets, patents, processes, styles of work. Those are all listed there, and other items, if the secretary determines that public disclosure of such information would adversely affect the organization. So we are limited, even with the number of participants, of what can be disclosed.

In general, EP examination appeals are not open to public inspection, except if maybe acquired through a FOI request, which is a Freedom of Information Act request.

So what's the difference between 2848 and 8821? The 2848 representative must present the proper representation of the completed form, which is the 2848 or 8821. For a 2848, an attorney, a CPA, an enrolled actuary, an enrolled agent, or the ERPA, which is the enrolled pension agent, which I believe Monica talked about earlier. You may prepare and file the necessary document if you have the correct, completed forms and you meet that criteria. ... with the IRS, represent a client at conferences, hearings and meetings, and the individual may advocate for the taxpayer.

A properly executed Form 8821 is tax information authorization that allows an unenrolled return preparer to provide plan information for the IRS and receive plan information from the IRS; receive copies of correspondence from the IRS; and submit information requested by the IRS which is specific data asset information as part of the review of a determination letter application.

On slide 40, unenrolled preparers are not authorized to represent the taxpayers even with a Form 8821 in these areas. They may not advocate positions; amend plan documents; sign documents; or negotiate closing agreements. So that's very important to remember, because we do have many cases where we have treated 8821s and we have to remind those unenrolled preparers that they cannot do these particular actions. If unenrolled preparers ... the proposed plan amendment—this is important too—or advocate positions contrary to those taken by the employee who is assigned the case, we must explicitly state, preferably in writing, that the decisions are made by the taxpayer. So we have to know that the taxpayer is making those decisions, not the unenrolled preparer who completed the 8821, and that can be done either by telephone or in person or in writing.

I want to talk about correspondence, and that's on slide 41. One of the items that we hear frequently is correspondence to and from taxpayers. Our requirements are that when we send out a correspondence, even for additional information or a ... we are required to send that correspondence to the taxpayer and the valid representative, if there is one. I know that we have questions why we have to send it to the taxpayer, but our rules require us to also send the taxpayer a copy of any correspondence that we send out.

If the valid PLA is listed in the second—is second in part one, item two, and if 7a is not checked, and this is on the form, then the employer and the first PLA should be the only ones receiving correspondence, including the determination letter.

So it's very important that you fill out the 2848, 8821, that they're filled out correctly. Because as I said in my introduction, many times we get calls because the power of attorney did not get copies of the determination letter, and many of those times it's because the forms are not filled out correctly. The blocks are not checked, so we do not send the favorable determination letter if the forms are not checked correctly. So if 7a is not marked in the second PLA, we can contact them by telephone, but we cannot send correspondence to them. And if 7b is checked, and the PLA does not want to submit a new 2848 or 8821, then neither of the PLA listed will receive correspondence.

Going onto slide 43, if the 8821 has been used, and box 5a is not checked, then the appointee should not be sent any correspondence. So if you want correspondence, it's very important for 5a to be checked.

Going onto slide 44, who is the taxpayer for purpose of a 5300? The plan and the trust are two separate legal entities, and this was mentioned earlier about, who are the taxpayers? There are three taxpayers in the form in a 5300 application for determination: the sponsoring employer, the trust, and the plan participant or the beneficiary. The instructions for both the Form 2848 and 8821 require that item one, taxpayer information, contain the plan name and number, and the plan sponsor name, address and EIN. Unless the employer is also the trustee, a second PLA may be necessary if amendments to the trust are required. Now that happens very rarely, but it does happen on occasion.

Clearly as entered in item 2 on a 2848, representative and 8821 F1T, only individuals may be named as a representative on 2848. Any individual, organization, firm, corporation or a partnership may be named as an appointee on Form 8821. Each form should contain the full 9 digit tax number. All other information must be fully completed before the determination letter is issued.

Now also when your applications come in, when they're processed initially at our campus, and when they're processed in the campus, they check the 2848 and 8821 very carefully to make sure it's valid. If they are not valid, they are not put on our computer system, and the specialist that works the case may have to secure a corrected, completed 2848 or 8821. However, if contract does not need to be made on a case, there may be instances when representatives do not get copies of the determination letter, because no contact was made, and the power of attorney was not completed correctly at the beginning. So I want to emphasize again that they need to be completed correctly.

One of the things that we find often incorrect is in item 3, which is called tax matters, on both forms, you need to refer to the tax form where it says tax form number—5300 is the acceptable; 5307 or 5310; or I see 5300 series. That's acceptable. It needs to say—we've even accepted items dealing with a determination letter filing, but for the Service Center it would be much better if you just referred to the form number. So I know it's not a tax form, but the determination letter, if you put the number there, that is really the way to get it through the Service Center to where they will know you're putting the correct form on there, and it will be authorized and in our system listed as an authorized and valid power of attorney.

Also, for the years, which is a question on there, the best answer on that is just N/A.

That concludes my part of the presentation.